

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A
JUDGE, No. 03-14:

Case No.: SC 04-1

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AMENDED NOTICE OF FORMAL CHARGES

TO: The Honorable James E. Henson
Circuit Judge
Ninth Judicial Circuit
2000 E. Michigan Street
Orlando, Florida 32806

YOU ARE HEREBY NOTIFIED THAT the Investigative Panel of The Florida Judicial Qualifications Commission, by a vote of at least five members at its meeting held in Tampa, Florida on October 10, 2003, has determined, pursuant to Rules 2(2) and 6, Florida Judicial Qualifications Commission Rules, and Article V, Section 12(b) of the Constitution of Florida, that probable cause exists for formal proceedings to be instituted against you.

Formal proceedings accordingly are hereby instituted to inquire into the following charges:

COUNT ONE
MISCONDUCT WHILE A JUDGE

1. In late 2000, while you were a county judge, you asked Rogelio Candelaria, a bail bondsman, to arrange a meeting between you and Dr. Alberto Jimenez, whose daughter, Diana M. Jimenez, was facing a charge of DUI manslaughter.

2. On or about December 18, 2000, while you were a county judge, you met with Dr. Jimenez, who had previously retained Steve Jablon, Esq., to represent Diana Jimenez. The purpose of the meeting was for you to be retained in place of Mr. Jablon. At the meeting, you persuaded Dr. Jimenez to discharge Mr. Jablon and to retain you.

3. At the meeting with Dr. Jimenez, on or about December 18, 2000, in Mr. Candelaria's office, and while you were a county judge, you accepted a fee of \$15,000 from Dr. Jimenez for the representation of his daughter.

4. On or about December 20, 2000, while you were a county judge, you were present in the courtroom at a hearing to set bond for Ms. Jimenez.

COUNT TWO

MISCONDUCT WHILE A LAWYER

A. ADVICE TO CLIENTS TO LEAVE JURISDICTION

5. You represented Diane M. Jimenez, who was arrested on December 12, 2000 for DUI manslaughter and other related charges. In or about September or October, 2001, while Ms. Jimenez was released from jail on a \$100,000 bond, you met with her and her father and discussed the possibility of Ms. Jimenez fleeing to Colombia, and you advised her to do so.

6. You represented Jerry Lee Thompson, who was arrested on April 29, 2001 for (i) unlawfully carrying a concealed handgun; (ii) unlawfully possessing 10 grams or less of marijuana; and (iii) using or possessing drug paraphernalia. In or about the summer and fall of 2001, while Mr. Thompson was released from jail on a \$25,000 bond, you advised him to flee to Mexico to avoid the charges he faced.

7. You represented Hector Rodriguez, Jr., who was arrested on March 14, 2001 for sexual battery charges. In or about January, 2002, while Mr. Rodriguez was released from jail on a \$75,000 bond, you advised him to flee the jurisdiction, which he did.

B. INADEQUATE REPRESENTATION OF CLIENT

8. In the course of representing Ms. Jimenez, you failed to (i) properly investigate the case; (ii) hire a private investigator, as you promised; (iii) file appropriate motions in Ms. Jimenez's case; (iv) associate other counsel on the case, as you promised; (v) return Ms. Jimenez's telephone calls; and (vi) communicate the State's settlement offer to Ms. Jimenez of 10 or 12 years imprisonment, which was less than the 16 years to which she was later sentenced.

Conduct unbecoming a member of the judiciary may be proved by evidence of specific major incidents which indicate such conduct, or it may be shown by an accumulation of small and ostensibly innocuous incidents which, when considered together, emerge as a pattern of conduct unbecoming a member of the judiciary.

See In re Kelly, 238 So.2d 565, 566 (Fla. 1970).

The acts described above, if they occurred as alleged, were in violation of:

(1) Canons 1, 2, 3, and 5 of the Code of Judicial Conduct, which were then applicable to you as a county judge, and

(2) Rules 4-1.1, 4-1.2(d), 4-1.3, 4-1.4, 4-8.4(a), 4-8.4(b), and 4-8.4(c), Rules of Professional Conduct, which were then applicable to you as a lawyer and member of The Florida Bar.

Further, these acts, if they occurred as alleged, would impair the confidence of the citizens of this state in the integrity of the judicial system and in you as a judge, would constitute conduct unbecoming a member of the judiciary, could demonstrate your present unfitness to hold the office of judge, and could warrant discipline, including removal from office, and discipline as an attorney.

INVESTIGATIVE PANEL OF THE
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile to Kirk N. Kirkconnell, Esq., Kirkconnell, Lindsey, Snure & Yates, P.A., 1150 Louisiana Avenue, P.O. Box 2728, Winter Park, Florida 32790, and John R. Beranek, Esq., Ausley & McMullen, P.A., 227 South Calhoun Street, P.O. Box 391, Tallahassee, Florida 32301, on this ____ day of August, 2004.

Attorney

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